

## SUBCOMMITTEE: CRIMINAL

## HOUSE BILL NO. 1063

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice

on \_\_\_\_\_)

(Patron Prior to Substitute--Delegate Kory)

A BILL to amend and reenact §§ 19.2-53 and 19.2-56 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 18.2-16.1, relating to abolishing the common-law crime of suicide.

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 19.2-53 and 19.2-56 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 18.2-16.1 as follows:**

**§ 18.2-16.1. Common-law crime of suicide abolished.**The common-law crime of suicide is hereby abolished.**§ 19.2-53. What may be searched and seized.**

A. Search warrants may be issued for the search of or for specified places, things, or persons, and seizure therefrom of the following things as specified in the warrant:

1. Weapons or other objects used in the commission of crime;
2. Articles or things the sale or possession of which is unlawful;
3. Stolen property or the fruits of any crime;
4. Any object, thing, or person, including without limitation, documents, books, papers, records, or body fluids, constituting evidence of the commission of crime; or
5. Any person to be arrested for whom a warrant or process for arrest has been issued.

Notwithstanding any other provision in this chapter to the contrary, no search warrant may be issued as a substitute for a witness subpoena.

A search warrant may be issued for the search of specified places, things, or persons in connection with the commission of suicide.

B. Any search warrant issued for the search and seizure of a computer, computer network, or other device containing electronic or digital information shall be deemed to include the search and seizure of the physical components and the electronic or digital information contained in any such computer, computer network, or other device.

C. Any search, including the search of the contents of any computer, computer network, or other device conducted pursuant to subsection B, may be conducted in any location and is not limited to the location where the evidence was seized.

**§ 19.2-56. To whom search warrant directed; what it shall command; warrant to show date and time of issuance; copy of affidavit to be part of warrant and served therewith; warrants not executed within 15 days.**

The judge, magistrate, or other official authorized to issue criminal warrants, shall issue a search warrant if he finds from the facts or circumstances recited in the affidavit that there is probable cause for the issuance thereof.

Every search warrant shall be directed to (i) the sheriff, sergeant, or any policeman of the county, city, or town in which the place to be searched is located, (ii) any law-enforcement officer or agent employed by the Commonwealth and vested with the powers of sheriffs and police, or (iii) jointly to any such sheriff, sergeant, policeman, or law-enforcement officer or agent and an agent, special agent, or officer of the Federal Bureau of Investigation, the Bureau of Alcohol, Tobacco and Firearms of the United States Treasury, the United States Naval Criminal Investigative Service, or the United States Department of Homeland Security, any inspector, law-enforcement official, or police personnel of the United States Postal Service, or the Drug Enforcement Administration. The warrant shall (a) name the affiant, (b) recite the offense, the suicide, or the identity of the person to be arrested for whom a warrant or process for arrest has been issued in relation to which the search is to be made, (c) name or describe the place to be searched, (d) describe the property or person to be searched for, and (e) recite that the magistrate has found probable cause to believe that the property or person constitutes evidence of a crime or of suicide (identified in the warrant) or tends to show that a person (named or described therein) has committed or is committing a

crime, has committed suicide, or that the person to be arrested for whom a warrant or process for arrest has been issued is located at the place to be searched.

The warrant shall command that the place be forthwith searched, either in day or night, and that the objects or persons described in the warrant, if found there, be seized. An inventory shall be produced before a court having jurisdiction of the offense or over the person to be arrested for whom a warrant or process for arrest has been issued in relation to which the warrant was issued as provided in § 19.2-57.

Any such warrant as provided in this section shall be executed by the policeman or other law-enforcement officer or agent into whose hands it shall come or be delivered. If the warrant is directed jointly to a sheriff, sergeant, policeman, or law-enforcement officer or agent of the Commonwealth and a federal agent or officer as otherwise provided in this section, the warrant may be executed jointly or by the policeman, law-enforcement officer, or agent into whose hands it is delivered. No other person may be permitted to be present during or participate in the execution of a warrant to search a place except (1) the owners and occupants of the place to be searched when permitted to be present by the officer in charge of the conduct of the search and (2) persons designated by the officer in charge of the conduct of the search to assist or provide expertise in the conduct of the search.

Any search warrant for records or other information pertaining to a subscriber to, or customer of, an electronic communication service or remote computing service, whether a domestic corporation or foreign corporation, that is transacting or has transacted any business in the Commonwealth, to be executed upon such service provider may be executed within or outside the Commonwealth by hand, United States mail, commercial delivery service, facsimile, or other electronic means upon the service provider. Notwithstanding the provisions of § 19.2-57, the officer executing a warrant pursuant to this paragraph shall endorse the date of execution thereon and shall file the warrant, with the inventory attached (or a notation that no property was seized) and the accompanying affidavit, unless such affidavit was made by voice or videotape recording, within three days after the materials ordered to be produced are received by the officer from the service provider. The return shall be made in the circuit court clerk's office for the jurisdiction wherein the warrant was (A) executed, if executed within the Commonwealth, and a copy of the return shall also be delivered to the clerk of the circuit court of the county or city where the warrant

was issued; or (B) issued, if executed outside the Commonwealth. Saturdays, Sundays, or any federal or state legal holiday shall not be used in computing the three-day filing period.

Electronic communication service or remote computing service providers, whether a foreign or domestic corporation, shall also provide the contents of electronic communications pursuant to a search warrant issued under this section and § 19.2-70.3 using the same process described in the preceding paragraph.

Notwithstanding the provisions of § 19.2-57, any search warrant for records or other information pertaining to a customer of a financial institution as defined in § 6.2-604, money transmitter as defined in § 6.2-1900, commercial business providing credit history or credit reports, or issuer as defined in § 6.2-424 may be executed within the Commonwealth by hand, United States mail, commercial delivery service, facsimile, or other electronic means upon the financial institution, money transmitter, commercial business providing credit history or credit reports, or issuer. The officer executing such warrant shall endorse the date of execution thereon and shall file the warrant, with the inventory attached (or a notation that no property was seized) and the accompanying affidavit, unless such affidavit was made by voice or videotape recording, within three days after the materials ordered to be produced are received by the officer from the financial institution, money transmitter, commercial business providing credit history or credit reports, or issuer. The return shall be made in the circuit court clerk's office for the jurisdiction wherein the warrant was executed. Saturdays, Sundays, or any federal or state legal holiday shall not be used in computing the three-day filing period. For the purposes of this section, the warrant will be considered executed in the jurisdiction where the entity on which the warrant is served is located.

Every search warrant shall contain the date and time it was issued. However, the failure of any such search warrant to contain the date and time it was issued shall not render the warrant void, provided that the date and time of issuing of said warrant is established by competent evidence.

The judge, magistrate, or other official authorized to issue criminal warrants shall attach a copy of the affidavit required by § 19.2-54, which shall become a part of the search warrant and served therewith. However, this provision shall not be applicable in any case in which the affidavit is made by means of a voice or videotape recording or where the affidavit has been sealed pursuant to § 19.2-54.

107 Any search warrant not executed within 15 days after issuance thereof shall be returned to, and  
108 voided by, the officer who issued such search warrant.

109 For the purposes of this section:

110 "Foreign corporation" means any corporation or other entity, whose primary place of business is  
111 located outside of the boundaries of the Commonwealth, that makes a contract or engages in a terms of  
112 service agreement with a resident of the Commonwealth to be performed in whole or in part by either  
113 party in the Commonwealth, or a corporation that has been issued a certificate of authority pursuant to §  
114 13.1-759 to transact business in the Commonwealth. The making of the contract or terms of service  
115 agreement or the issuance of a certificate of authority shall be considered to be the agreement of the foreign  
116 corporation or entity that a search warrant or subpoena, which has been properly served on it, has the same  
117 legal force and effect as if served personally within the Commonwealth.

118 "Properly served" means delivery of a search warrant or subpoena by hand, by United States mail,  
119 by commercial delivery service, by facsimile, or by any other manner to any officer of a corporation or its  
120 general manager in the Commonwealth, to any natural person designated by it as agent for the service of  
121 process, or if such corporation has designated a corporate agent, to any person named in the latest annual  
122 report filed pursuant to § 13.1-775.

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